

**CALIFORNIA BOARD OF ACCOUNTANCY**

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**AVAILABILITY OF MODIFIED TEXT**

NOTICE IS HEREBY GIVEN that the California Board of Accountancy has proposed modifications to the text of Sections 51.1, 59, 60, 61, 68.2, 68.3, 68.4, and 68.5 in Title 16 Cal.Code Reg. which were the subject of regulatory hearings on March 22, 2003, and May 16, 2003. A copy of the modified text is enclosed. Any person who wishes to comment on the proposed modifications may do so by submitting written comments on or before June 11, 2003, to the following:

Aronna Granick, Regulations Coordinator  
California Board of Accountancy  
2000 Evergreen Street, Suite 250  
Sacramento, CA 95815  
E-Mail Address: [regcomment103@cba.ca.gov](mailto:regcomment103@cba.ca.gov)

DATED: May 22, 2003

A handwritten signature in cursive script, reading 'Mary J. Brock', written over a horizontal line.

## MODIFIED TEXT

Changes to the originally proposed language are shown in bold with double underline for new text and underline with strikeout for deleted text.

### **Section 51.1. Notification of Non-licensee Ownership.**

(a) Any firm with a nonlicensee owner or owners **that has one or more offices located in California** shall notify each client **served by an office located in California** of the actual or potential involvement of a nonlicensee owner or owners in any service to be provided to the client by the firm. Notice shall be provided by any of the following methods:

(1) Providing a statement to each client **served by a California office** to be signed and dated by the client and retained in the firm's records that states that the client understands that services will or may be provided by a nonlicensee owner of the firm.

(2) Including a statement that the firm has a nonlicensee owner or owners who may provide client services in any contract for services, proposal letter, or engagement letter with the client **served by a California office**.

(b) A copy of the statement, contract, engagement letter, or proposal letter containing this notice shall be maintained by the public accounting firm in the client's files for a minimum of five years from the date of the notice.

Note: Authority cited: Section 5010, 5018, and 5079, Business and Professions Code.  
Reference: Section 5079, Business and Professions Code.

### **Section 59. Reporting of Restatements.**

(a) To comply with the requirements of paragraph (1) of subdivision (b) of Business and Professions Code Section 5063, a licensee who issues a report on a client's restated financial statement shall report to the Board:

(1) Any restatement of a financial statement reporting the correction of any error in a previously issued financial statement of a client that is:

(A) a publicly traded company **located, incorporated, or doing business in California that is required to file a tax return with the California Franchise Tax Board**;

(B) a government agency located in California, **when the financial restatement(s) exceeds the planning materiality used by the licensee in conjunction with the current year audit. For purposes of this paragraph, planning materiality means the planned level of misstatements, individually or in aggregate, that would cause**

the financial statements to not be presented fairly, in all material respects, in conformity with generally accepted accounting principles.; or  
(C) any other entity where disclosure of the financial statement is required by law and the entity is incorporated, located, or doing business in California.

(2) Any restatement of a financial statement of a charitable organization registered by the Office of the Attorney General's Registry of Charitable Trusts which is issued for purposes of correcting any error in a previously issued financial statement and which has resulted in the filing of an amended or superceding Internal Revenue Service Form 990 or 990PF.

(b) The report required by subsection (a) shall be made by the licensee issuing the report on the restatement even if the licensee did not perform the original audit. The report required by subsection (a) shall be provided to the Board within 30 days of issuance of the restatement, shall be signed by the licensee, and shall set forth the facts which constitute the reportable event including an explanation of the reason for the restatement. The report made under paragraph (a)(1) of this section shall include copies of the original and the restated financial statements. The report made under paragraph (a)(2) of this section shall include only those portions of the original and the amended Forms 990 or 990PF related to the reissued financial statement.

Note: Authority Cited Sections 5010, 5018, and 5063, Business and Professions Code.  
Reference: Section 5063, Business and Professions Code.

**Section 60. Reporting of Investigations by the Securities and Exchange Commission pursuant to Section 5063(b)(3); Reporting of Notices of Requests for Wells Submissions pursuant to Section 5063 (b)(4); and Reporting of Investigations by the Public Company Accounting Oversight Board pursuant to Section 5063(b)(5).**

(a) For purposes of reporting pursuant to Section 5063 (b)(5), notice of the opening or initiation of an investigation by the Public Company Accounting Oversight Board shall include any notice by the Public Company Accounting Oversight Board that it is initiating an investigation of the licensee **or any associated person of the licensee in connection with any services performed by the licensee or the associated person.**

(b) For purposes of this subsection "associated person" means the same as in the Sarbanes-Oxley Act of 2002 as follows: any individual proprietor, partner, shareholder, principal, accountant, or other professional employee of a public accounting firm, or any other independent contractor or entity that, in connection with the preparation or issuance of any audit report – (i) shares in the profits of, or receives compensation in any other form from, that firm; or (ii) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm.

(b) Reports received by the Board pursuant to the requirements of subsection (a) of this section or of paragraphs (3), (4) or (5) of subdivision (b) of Business and Professions Code 5063 shall not be publicly disclosed other than (1) in the course of any disciplinary proceeding by the Board after the filing of a formal accusation; (2) in the course of any legal action to which the Board is a party; (3) in response to an official inquiry from a state or federal agency; (4) in response to a subpoena or summons enforceable by order of a court; or (5) when otherwise specifically required by law.

Note: Authority Cited Sections 5010, 5018, and 5063, Business and Professions Code.  
Reference: Section 5063, Business and Professions Code.

#### **Section 61. The Reporting of Settlements, Arbitration Awards, and Judgments.**

(a) To meet the reporting requirements of paragraph (b)(2) of Section 5063, licensees shall report settlements and arbitration awards consistent with that provision that are the result of actions brought by persons located, residing, or doing business in California.

(b) Reports of judgments in civil actions alleging negligent conduct **(but not dishonesty, fraud, or gross negligence)** by a licensee pursuant to paragraph (c)(1) of Section 5063 shall be limited to those judgments in which a person **located**, residing in or doing business in California is a **named** party to the action or where the alleged conduct relates to the practice of public accountancy in California. **Nothing in this subsection limits a licensee's responsibility to report under any other paragraph of subdivision (c) of Section 5063.**

(c) Reports received by the Board pursuant to the requirements of subsection (a) of this section shall not be publicly disclosed other than (1) in the course of any disciplinary proceeding by the Board after the filing of a formal accusation; (2) in the course of any legal action to which the Board is a party; (3) in response to an official inquiry from a state or federal agency; (4) in response to a subpoena or summons enforceable by order of a court; or (5) when otherwise specifically required by law.

Note: Authority Cited Sections 5010, 5018, and 5063, Business and Professions Code. Reference: Section 5063, Business and Professions Code.

#### **68.2. Components- Identification of Audit Documentation.**

(a) In addition to the requirements specified in Business and Professions Code Section 5097, audit documentation shall include, but not be limited to, the following:

(1) the objectives, scope, and methodology, including any sampling criteria used;

~~(2) documentation of the work performed to support significant conclusions and judgments, including descriptions of transactions and records examined that would enable a reviewer with relevant knowledge and experience, having no previous connection with the audit engagement, to examine the same transactions and records; and~~  
~~(3) evidence of any supervisory reviews of the work performed.~~

(b) (a) To provide for the identification of audit documentation, audit documentation shall include an index or guide to the audit documentation which identifies the components of the audit documentation.

(b) In addition to the requirements of Business and Professions Code Section 5097(b), audit ~~Audit~~ documentation shall provide the date the document or working paper was completed by the preparer(s) and any reviewer(s), and shall include the identity of the preparer(s) and any reviewer(s).

(c) Audit documentation shall include both the report date and the date of issuance of the report.

Note: Authority cited: Section 5010, 5018, and 5098, Business and Professions Code.  
Reference: Sections 5097 and 5098, Business and Professions Code.

### **68.3. Retention Period for Audit Documentation.**

(a). The retention period mandated by Business and Professions Code Section 5097 shall be measured from the report date.

(b) If audit documentation is required to be kept for longer than seven years because of a pending Board investigation or disciplinary action, audit documentation shall not be destroyed until the licensee has been notified in writing by the Board of the closure of a Board investigation or disciplinary proceeding.

(c) Any documents required to be maintained by Business and Professions Code Section 5097 or these regulations shall be maintained in accessible form.

(d) Audit documentation shall be retained whether or not the documentation supports the auditor's final conclusions. All audit documentation regarding any significant matter related to the audit shall be retained whether or not the documentation contains information or data inconsistent with the auditor's final conclusions. Significance of a matter shall be determined based on an objective analysis of the facts and circumstances. Audit documentation to be retained shall also include all documentation of consultations on, or resolutions of, any differences of opinion regarding the exercise of professional judgment.

Note: Authority cited: Section 5010, 5018, and 5098, Business and Professions Code.  
Reference: Sections 5097 and 5098, Business and Professions Code.

#### **68.4. Changes in Audit Documentation After Issuance of the Report.**

(a) Changes in audit documentation include any addition, removal, deletion, substitution, or editing of audit documentation, including, but not limited to, physical or electronic additions to any audit documentation file or preexisting audit documentation, occurring after the date of issuance of the audit report which is supported in whole or in part by the audit documentation.

**~~(b) Audit documentation shall include both the report date and the date of issuance of the report.~~**

**~~(c)~~(b) Except as provided in subsection (c), in** in addition to any other documentation required by professional standards, any changes in audit documentation shall provide the identity of the person(s) making the change, and identity of any person(s) approving the change, the date of the change, and the reason for the change if the reason is other than the assembling of pre-existing documents. The documentation which is changed shall contain sufficient detail to enable a reviewer with relevant knowledge and experience, having no previous connection with the audit engagement, to understand the nature, timing, reason for, and extent of the change.

**(c) During a 60 day period after the date of issuance of the audit report documents may be added to the file for the assemblage and documentation of work previously performed. Nothing in this subsection authorizes the deferral of audit procedures required to be performed prior to the date of issuance of the report.**

Note: Authority cited: Section 5010, 5018, and 5098, Business and Professions Code.  
Reference: Sections 5097 and 5098, Business and Professions Code.

#### **68.5. Audit Documentation Retention and Destruction Policy.**

(a) Licensees shall maintain, and document compliance with, a written Audit Documentation Retention and Destruction Policy which provides for the preservation of audit documentation for the full time period required by Business and Professions Code Section 5097. The policy and documentation of compliance shall be available to the Board upon request.

(b) This policy shall provide for the authorized custody, security, access, retention, and destruction of the documentation. This policy shall, at a minimum, include the following:  
(1) procedures for the maintenance of back-up copies of electronic audit documentation at secure locations,

(2) procedures for maintaining audit documentation,  
(3) procedures for approving any changes to audit documentation,  
(4) procedures for approving the destruction of documentation when no longer required  
to be maintained by Business and Professions Code Section 5097.

(c) The procedure required by subsection (b)(4 ) shall provide for identifying the  
persons, **by name or position,** authorized to approve the destruction of audit  
documentation ~~and shall require that an authorized person verify compliance with~~  
~~subdivisions (d) and (e) of Business and Professions Code Section 5097 at the~~  
~~time of document destruction. In the alternative, the procedure required by~~  
~~subsection (b)(4) may be self-executing once the retention period has expired.~~

Note: Authority cited: Section 5010, 5018, and 5098, Business and Professions Code.  
Reference: Sections 5097 and 5098, Business and Professions Code.